

REMARKS

The Office Action mailed July 19, 2006 has been carefully reviewed and the following remarks have been made in consequence thereof.

Claims 19-38 are pending in this application.

Reconsideration of the restriction requirement imposed under 35 U.S.C. § 121 is respectfully requested.

A restriction was imposed to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner alleges that the subject application contains claims directed to the following patentably distinct species: the species of Figures 1 and 2, and the species of Figures 3A-3C.

Applicant elects, with traverse, the species of Figures 3A-3C for prosecution on the merits. Applicant submits that Claims 19-27 and 33-38 read on this elected species.

The requirement for election is traversed because the species of Figures 1 and 2, and the species of Figures 3A-3C are clearly related. Applicant submits that a thorough search and examination of one species would be relevant to the examination of the other species.

The Examiner alleges that the species are “patentably distinct.” Applicant notes, however, that both species are directed to sleeping structures comprising a sleeping bag, as set forth in at least independent Claims 19, 28 and 35. Therefore, Applicant respectfully submits that the claims of both species have an overlapping nature such that a search and examination of both species can be made without serious burden.

MPEP section 803 states that if “the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Applicant respectfully submits that the search and examination of the entire application can be made without serious burden. For at least the reasons set forth above, Applicant respectfully requests examination of both species.

In addition, requirements for election are not mandatory under 35 U.S.C. § 121.
Accordingly, reconsideration of the restriction requirement is requested.

Respectfully submitted,

Eric T. Krischke

Eric T. Krischke
Registration No. 42,769
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070